

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SAMANTHA MAE ELMORE,

Plaintiff,

v.

CASE NO. 8:23-cv-977-SDM-TGW

PAUL M. BLAKE, et al.,

Defendants.

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**ORDER**

Samantha Mae Elmore, appearing *pro se*, sues several defendants, including Judge Paul M. Blake, a West Virginia family court judge; the Oak Hill, West Virginia police department; and the Fayette County, West Virginia public defender. Although Elmore's complaint is (at best) opaque, Elmore apparently attempts several claims based on some proceeding in a West Virginia family court. Elmore moves (Doc. 2) to proceed *in forma pauperis*. In a well reasoned report, the magistrate judge recommends (Doc. 3) dismissing without prejudice the complaint and denying the motion to proceed *in forma pauperis*. No objection timely appears.

The report describes a "litany of issues" with the complaint, such as Judge Blake's enjoying judicial immunity from any action premised on an act performed in Blake's judicial capacity and the *Rooker-Feldman* doctrine's barring any federal court from overturning the decision of a state court. Further, each of the defendants is in West Virginia, and the events on which Elmore appears to base this action occurred

in West Virginia. Under 28 U.S.C. § 1406, if a party sues in the wrong venue, that is, in a court that is not the proper place for an action to proceed,\* the “district court . . . shall dismiss[]” the action. Consequently, even if Elmore remedies the issues identified by the report and recommendation and even if Elmore’s amended complaint complies with Rules 8 and 10, Federal Rules of Civil Procedure, the complaint will remain subject to dismissal under 28 U.S.C. § 1406.

For the reasons stated by the magistrate judge, the report and recommendation is **ADOPTED**. The complaint is **DISMISSED WITHOUT PREJUDICE**, and the motion to proceed *in forma pauperis* is **DENIED WITHOUT PREJUDICE**. Because any amended complaint will remain subject to dismissal under 28 U.S.C. § 1406, this action is **DISMISSED WITHOUT PREJUDICE**. If she has a cognizable claim, Elmore must assert the claim in West Virginia. The clerk must close the case.

ORDERED in Tampa, Florida, on February 23, 2024.



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STEVEN D. MERRYDAY  
UNITED STATES DISTRICT JUDGE

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\* *Venue*, *Black’s Law Dictionary* (11th ed. 2019).